

**TITLE 329 IAC SOLID WASTE MANAGEMENT BOARD  
#05-219(SWMB)**

**SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

The Indiana Department of Environmental Management (IDEM) requested public comment from December 1, 2005, through January 3, 2006, on IDEM's draft rule language. IDEM received comments from the following parties:

Barnes and Thornburg, on behalf of Heritage Environmental Services LLC. (BAT)

Following is a summary of the comments received and IDEM's responses thereto.

**Comment:** The commenter believes that there is no environmental basis for the requirements set out in 329 IAC 4.1-13-1(b), (c), and (d), and that compliance with 40 CFR 761 Subpart D provides sufficient environmental protection. They feel that the proposed amendments add requirements that are more stringent than the federal requirements. They specifically question the need for the commissioner's written approval if the source was greater than 50 ppm or for disposal of PCB remediation waste at non-municipal waste landfills. They point out that the commissioner's written approval is not needed if the source was less than 50 ppm for PCB remediation waste that has been tested as required by 40 CFR 761.283, 761.286 and 761.292 and proven to contain less than 50 ppm PCBs. The commenter is not aware of any environmental or public health basis for requiring the written approval for PCB remediation waste solely because the PCB concentration of the source is greater than 50 ppm. They also point out that 40 CFR 761, Subpart D, does not make a distinction between remediation waste from sources greater or less than 50 ppm PCB. The commenter believes that this requirement establishes a competitive disadvantage for landfill facilities in the Indiana as they would need to factor in time required to obtain the commissioner's approval when bidding on PCB remediation waste projects. They feel that written approval should not be necessary when 40 CFR, Subpart D, allows disposal of PCB remediation waste in municipal solid waste landfills and nonmunicipal non-hazardous waste landfills when the waste has been documented to contain less than 50 ppm PCBs.

The commenter points out that 329 IAC 4.1-13-1, as proposed to be amended, contains no standard by which any company seeking approval to dispose of PCB remediation waste, can determine what information must be submitted to obtain such approval or what standard the commissioner would use as the basis for approving or denying a request to dispose of PCB remediation waste in Indiana.

The commenter recommends that, in addition to the proposed changes to 329 IAC 4.1-13-1(a), 329 IAC 4.1-13.1 be revised by striking everything in 329 IAC 4.1-13(b), (c), and (d) and then re-letter the remaining subsections.

**Response:** IDEM agrees that the existing language of 329 IAC 4.1-13-1 on PCB waste landfill disposal sets out a review process that can be redundant in its practical application. IDEM proposes to separate 329 IAC 4.1-13-1 into new sections 329 IAC 4.1-13-3 on state

authorization, 329 IAC 4.1-13-4 on notification to landfills, and 329 IAC 4.1-13-5 on disposal of fluorescent light ballasts.

The section on state authorization has been streamlined to eliminate such authorization when there is a federal approval process for the specific waste under 40 CFR 761, Subpart D or when state authorization would not result in meaningful additional environmental protection. State authorization as now proposed allows the commissioner to evaluate a non-conforming landfill in general to determine if such a disposal is environmentally protective, and allows for the inclusion of specific requirements for a particular waste and a particular landfill to ensure environmental and human health protection.

329 IAC 4.1-13-4 is now a stand-alone requirement for notification to the landfill of disposal of waste containing less than 50 ppm PCBs from a source that is less than 50 ppm PCBs. This regulation is consistent with the rules found under the solid waste regulations 329 IAC, specifically found at 329 IAC 10-9-5. This rule requires the owner/operator of a landfill to only accept waste listed in their facility permit, or to submit a written request, to be approved by the commissioner, for authorization to dispose of other wastes. Non-municipal solid waste landfills may submit this request to comply with both the Solid Waste and PCB regulations. A “blanket approval” could be requested to eliminate the need for generators to obtain specific approvals from the IDEM prior to disposal of this specific type of PCB waste.